

APPEAL NO. 023235
FILED JANUARY 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 20, 2002. The hearing officer resolved the disputed issues by deciding that the compensable left knee injury of _____, did not extend to and include an injury to the appellant's (claimant) right knee and that the claimant did not have disability as a result of the _____, compensable injury, after August 1, 2001. The claimant appeals both the extent-of-injury and disability determinations on sufficiency of the evidence grounds. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Extent of injury and disability are factual questions for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In this instance, the hearing officer was not persuaded that the claimant sustained his burden of proving that his right knee injury was a direct and natural result of his compensable left knee injury. The hearing officer specifically noted in her Statement of the Evidence that there was insufficient evidence to establish that the left knee continued to be symptomatic to the point that it caused the claimant to overstress his right knee, thereby causing injury. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the extent-of-injury determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the determination that the claimant's compensable injury does not extend to a right knee injury, we likewise affirm the determination that the claimant did not have disability, as a result of the _____, compensable injury, after August 1, 2001. The record reflects that after August 1, 2001, the claimant was losing time because of his right knee injury and, if that injury is not part of the compensable injury, the hearing officer did not err in determining that he did not have disability within the meaning of Section 401.011(16).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRANSCONTINENTAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C T CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Daniel R. Barry
Appeals Judge